RECENT CASES.

BANKRUPTCY — PROVABLE CLAIMS — RIGHTS OF SECURED CREDITOR. — After the filing of the petition in bankruptcy a creditor of the bankrupt liquidated his security, which was not sufficient to satisfy his whole claim. *Held*, that he cannot satisfy the claim for interest accruing between the date of the petition and the date of the liquidation of the security, and prove for the balance. *In re Kessler & Co.*, 171 Fed. 751 (Dist. Ct., S. D. N. Y.). See NOTES, p. 219.

BANKRUPTCY — RIGHTS AND DUTIES OF BANKRUPT — EXAMINATION BEFORE ADJUDICATION. — After an involuntary petition in bankruptcy had been filed against the plaintiff, but before he was adjudicated bankrupt, a special reference was granted to the receiver, empowering him to examine the plaintiff. *Held*, that this examination is unauthorized. *Skubinsky* v. *Bodex*, 172 Fed. 332 (C. C. A., Third Circ.).

Section 21 a of the Bankruptcy Act of 1898 gives the court power to require the appearance before a referee of a bankrupt whose estate is "in process of administration." And the text writers agree that the acts of a receiver before adjudication are acts of administration. See COLLIER, BANKRUPTCY, 7 ed., 734. Moreover, the desirability of a prompt investigation into the affairs of a bankrupt is undoubted. Furthermore, the filing of a petition in bankruptcy gives to the court broad powers. BANKRUPTCY ACT OF 1898, §§ 2 (3), (15); 9 b. Yet the narrow interpretation of section 21 a given in the principal case, is supported by the latest decisions. *In re Davidson*, 158 Fed. 678; *In re Crenshaw*, 155 Fed. 271. But under a somewhat similar provision of the Act of 1867 an examination before adjudication was allowed. *In re Salkey*, Fed. Cas. No. 12,252. And since the law aims to have all of the bankrupt's property ascertained for the protection of creditors, the decision in the principal case seems wrong. *In re Fleischer*, 151 Fed. 81; *In re Herskovitz*, 152 Fed. 316.

BILLS AND NOTES — CHECKS — WHETHER RECEIPT OF CHECK DISCHARGES ORIGINAL OBLIGATION. — For several years the interest on the defendant company's debentures held by the plaintiff was paid by checks which were not cashed. On the failure of the defendant, the plaintiff claimed priority over the simple contract creditors as to the amount of the interest. *Held*, that the mere receipt of the checks does not prevent the plaintiff from ranking as a secured creditor. *In re Defries & Sons, Ltd.*, [1909] 2 Ch. 423.

In the absence of any express agreement to the contrary, the mere receipt of a check will not operate as a discharge of the original debt. *Taylor* v. *Wilson*, 11 Met. (Mass.) 44. An actual payment of the check is necessary. *Sage* v. *Burton*, 84 Hun (N. Y.) 267. This is especially true when there is a higher legal remedy on the original cause of action than on the check. *Davis* v. *Gyde*, 2 A. & E. 623. In the principal case, it would be unjust for the plaintiff to be forced to give up the security on the debentures, simply because the defendants mailed her a check. But the acceptance of a check implies an undertaking to present it for payment in a reasonable time, and if the failure to do so has caused the defendant any damage, the amount of the plaintiff's recovery should be reduced to that extent. *Brown* v. *Schintz*, 202 Ill. 509. If the defendant suffers no damage by reason of the plaintiff's laches, there is no set-off, and the burden of proving damage is on the defendant. *Bradford* v. *Fox*, 38 N. Y. 289.

CARRIERS — DUTY TO TRANSPORT AND DELIVER — DISCRIMINATION WITHIN A CLASS OF GOODS. — The defendant express company was accustomed to carry merchandise C. O. D., but refused to carry in that way liquor offered for ship-